

January 12, 2015

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, D.C. 20554

**Re: Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television and Television Translator Stations, MB Docket No. 03-185, GN Docket No. 12-268, ET Docket No. 14-175  
Comments of U.S. Television, Inc.**

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Dear Ms. Dortch:

U.S. Television, LLC ("USTV"), hereby files these comments in response to the FCC's *Third Notice of Proposed Rulemaking* in the above-referenced proceeding.<sup>1</sup> As USTV has previously informed the FCC, the 13 low-power television stations identified by Congress in the LPTV Pilot Project Digital Data Services Act (the "DDSA") must be protected from displacement in the TV spectrum repack, and the FCC must grant such stations a processing priority to ensure that they will have the opportunity to continue operating in the post-auction UHF TV spectrum band.

USTV is the owner of a number of low-power television stations protected by Congress's enactment of the DDSA in 2000.<sup>2</sup> USTV has participated in the FCC's proceedings regarding the upcoming TV broadcast incentive auctions and TV spectrum to ensure that these developments do not interfere with USTV's Congressionally-conferred rights to continue operating certain low-power television stations as part of Congress's effort to foster broadband wireless services using UHF spectrum.<sup>3</sup>

Under the DDSA, the FCC is required to protect the operations of the small number of LPTV stations covered by the statute. USTV has proposed that the FCC address this issue by giving the 13 DDSA stations a priority when they apply for new operating channels if any such station is displaced as a result of the auction and repack.<sup>4</sup> A recent inquiry from Senator Mary Landrieu of Louisiana demonstrates Congress's continuing interest in protecting the DDSA stations and preserving the ability to use LPTV stations to bring broadband services to underserved areas using UHF spectrum.<sup>5</sup>

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<sup>1</sup> See Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television and Television Translator Stations, *et al.*, *Third Notice of Proposed Rulemaking*, 29 FCC Rcd 12536 (2014) ("*Third NPRM*"); see also Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television and Television Translator Stations, *et al.*, *Order*, MB Docket No. 03-185, GN Docket No. 12-268, ET Docket No. 14-175, DA 14-1727 (rel. Dec. 1, 2014).

<sup>2</sup> See Pub L. No 106-554, 114 Stat. 4577 (Dec. 21, 2000).

<sup>3</sup> See U.S. Television, Petition for Reconsideration, GN Docket No. 12-268, filed Sept. 12, 2014 (the "Petition"). A copy of USTV's Petition is attached hereto as Exhibit A.

<sup>4</sup> See Petition at 4-7.

<sup>5</sup> See Letter from Sen. Mary L. Landrieu to the Honorable Tom Wheeler, Chairman, FCC, dated Dec. 23, 2014. A copy of this letter is attached hereto as Exhibit B.

The FCC must comply with the DDSA by, at a minimum, granting USTV and the other stations covered by the statute the requested priority.

USTV urges the FCC to use this proceeding to extend a post-auction processing priority to stations covered by the DDSA that are displaced as a result of the post-auction repack. Thus far, the FCC has not addressed the rights of stations protected by the DDSA in the post-auction repack. The *Third NPRM* seeks comment on a number of issues that will be important to the operation of LPTV stations following the auction and repack. But it fails to propose that LPTV stations protected by the DDSA will obtain UHF channels that remain available after the repack of full power and Class A stations is concluded. This course is not consistent with the DDSA, and the FCC must remedy that by including the DDSA stations on a priority basis in any decisions regarding the reallocation of spectrum to displaced LPTV stations.

At this point, the only low-power TV stations that the FCC chosen to protect in the repack are digital replacement translators (“DRTs”),<sup>6</sup> and the *Third NPRM* proposes mechanisms for displaced DRTs to pursue replacement channels on a priority basis.<sup>7</sup> USTV does not oppose the FCC’s decision to grant these protections to DRTs, which provide an important service to over-the-air television viewers. At the same time, however, DRTs lack the statutory protections that Congress extended to the 13 LPTV stations covered by the DDSA, so there is no justification for extending greater protections to DRTs than to the LPTV stations covered by the statute.

Since the FCC already is in the process of establishing the procedure for DRTs to obtain priority replacement channels after the repack, the simplest solution at this point would be to grant the same processing rights to the 13 LPTV stations covered by the DDSA. Under this arrangement, post-auction displacement applications filed by DDSA stations would be treated on a co-equal basis with DRT displacement applications. Given the small number of DDSA stations involved, extending the existing DRT priority to the DDSA stations would have little, if any, impact on administration of the repack, but it would ensure the FCC’s compliance with the DDSA.

For these reasons, USTV hereby renews its request that the LPTV stations covered by the DDSA be granted a priority for displacement channels in the post-auction repack.

Respectfully submitted,

/s/

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<sup>6</sup> See Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, *Report and Order*, 29 FCC Rcd 6567, 6836-37 (2014).

<sup>7</sup> *Third NPRM*, 29 FCC Rcd at 12550-51.

# EXHIBIT

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**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Expanding the Economic and Innovation	)	
Opportunities of Spectrum Through	)	GN Docket No. 12-268
Incentive Auctions	)	

**PETITION FOR RECONSIDERATION**

Pursuant to Section 1.429 of the FCC rules, U.S. Television, LLC (“USTV”) hereby files this petition for reconsideration of the FCC’s *Report and Order* in the above-captioned proceeding.<sup>1</sup>

**I. INTRODUCTION AND BACKGROUND**

The FCC erred by failing to take into account the low-power television (“LPTV”) stations protected by the LPTV Pilot Project Digital Data Services Act in December 2000 when it decided that all LPTV stations would be entirely unprotected in the post-auction TV repack.<sup>2</sup> As an owner of stations covered by the DDSA, USTV hereby requests that the FCC reconsider its decision to the limited extent that it disenfranchises DDSA stations. The Commission should grant DDSA services a first priority over other displaced LPTV stations when it assigns new TV spectrum following the auction.

USTV currently is the licensee of low-power television stations WWRJ-LP, Jacksonville, Florida; WIIW-LP, Nashville, Tennessee; and KHHI-LP, Honolulu, Hawaii. For the past two decades, USTV also has been a pioneer in the deployment of digital data services over the UHF

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<sup>1</sup> See Expanding the Economic and Innovation Opportunities for Spectrum Through Incentive Auctions, *Report and Order*, GN Docket No. 12-268, FCC 14-50 (rel. June 2, 2014) (the “*Incentive Auction Order*”); 79 Fed. Reg. 48442 (Aug. 15, 2014).

<sup>2</sup> See Pub L. No 106-554, 114 Stat. 4577 (Dec. 21, 2000) (the “DDSA”); see also *Incentive Auction Order*, paras. 21, 236-241. A copy of the DDSA is attached hereto as Exhibit A.

television spectrum. The FCC granted USTV an experimental license in December of 1997 to fully convert station KHLN-LP in Houston to providing one-way (downstream) digital data services, including high-speed multi-megabit internet connectivity to its business customers.<sup>3</sup> By July of 1998 USTV had built out its UHF digital data facilities in Houston and the FCC granted USTV a commercial license on a non-experimental basis.<sup>4</sup>

In the late 1990s, USTV realized that its customers were seeking full two-way broadband capability that could not then be offered by LPTV stations. Recognizing that its long-term commercial viability as a wireless digital data provider depended upon its ability to deliver two-way wireless digital data, USTV embarked on a multi-year campaign to obtain both the legal authority and the technical means to convert its stations to fully two-way data transmission stations.

To obtain the necessary legal authority, USTV conducted a two-year campaign to convince Congress to authorize low-power television stations to deliver two-way wireless broadband service over UHF spectrum. Congress responded by enacting the LPTV Pilot Project Digital Data Services Act in December 2000.<sup>5</sup> Congress shared USTV's vision of using the low-power UHF spectrum to deliver two-way wireless digital data services, and the statute directed the FCC to establish rules for a pilot programming that would include 13 identified low-power television stations, including USTV stations WWRJ-LP, WIIW-LP, and KHHI-LP.<sup>6</sup> The

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<sup>3</sup> USTV subsequently sold KHLN-LP to Lotus TV of Houston LLC in 2004.

<sup>4</sup> USTV's experience in Houston conclusively proved that the UHF spectrum provided superior propagation characteristics and signal stability, as its data transmission to its customers penetrated foliage which blocked higher frequency transmissions, and was stable even during Houston's turbulent tropical weather, including Tropical Storm Frances in September of 1998.

<sup>5</sup> See Pub L. No 106-554, 114 Stat. 4577 (Dec. 21, 2000) (the "DDSA"). At the time, USTV also owned KHLN-LP, Houston, Texas, KPHE-LP, Phoenix, Arizona, and WTAM-LP, Tampa, Florida.

<sup>6</sup> See DDSA, Sec. 143.

statute did not set a time limit for the pilot program, and the FCC adopted rules to facilitate stations' LPTV data operations.<sup>7</sup>

In its efforts to ensure that the facilities and technology would be available for two-way service, USTV invested more than \$12 million from 1997 to 2002. Unfortunately, the technology of deploying two-way wireless data over the UHF spectrum was neither developed nor commercially available at that time, and the relative handful of thirteen DDSA stations that could benefit from its deployment did not justify the immense capital investment necessary to develop such technology and customer equipment. USTV's goal of rolling out full two-way broadband services on its low power TV stations went into a temporary hiatus.

Now, of course, the technology and equipment necessary for two-way wireless digital data services on the UHF spectrum will soon be widely deployed. Following the upcoming TV incentive auctions, USTV and other DDSA station owners will be able to take advantage of the development of technology and equipment for the 600 MHz auction winners and deploy this technology on their licensed spectrum. USTV's 17-year vision is now technologically ready for deployment, and its stations and other DDSA stations are ready to make it a reality.

The *Incentive Auction Order*, however, threatens to derail USTV's (and Congress's) plans to transition UHF spectrum to wireless broadband use. The FCC ignored the DDSA, holding that all low-power stations – including DDSA stations specifically identified by Congress as potential wireless data service providers – must wait until full-power stations are awarded post-auction channels and contend with each other for the bits of spectrum that are left. And even among low-power stations the FCC did not grant DDSA stations any priority for

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<sup>7</sup> See Implementation of LPTV Digital Data Services Pilot Project, *Order*, 16 FCC Rcd 9734 (2001); *Order on Reconsideration*, 17 FCC Rcd 2988 (2002); see also 47 C.F.R. § 74.785.

obtaining displacement channels. The FCC's decision ignores the statute and the record in this proceeding and should be reconsidered.

USTV and other owners of DDSA stations should be given the opportunity to fulfill Congress's vision. These stations cannot play the role to which Congress appointed them unless the FCC ensures that they will have UHF channels following the auction. To ensure compliance with its responsibilities under the DDSA, the FCC must accommodate the DDSA stations and ensure that they have every opportunity to obtain post-auction UHF channels.<sup>8</sup>

## **II. THE FCC MUST GRANT REPACK PRIORITY TO THE STATIONS THAT CONGRESS IDENTIFIED IN THE DDSA.**

In the *Incentive Auction Order*, the FCC decided not to protect channels allotted to low power television stations from interference caused by full-power and Class A television stations as a result of the post-auction TV repack.<sup>9</sup> The FCC reasoned that because LPTV stations are secondary services by nature, protecting them would compromise Congress's goal of recovering the maximum amount of 600 MHz spectrum through the auction process.<sup>10</sup> USTV disagrees with this conclusion and its reasoning because Congress sought to balance the need for additional wireless spectrum with the tremendous value that broadcast television contributes to the fabric of American life.<sup>11</sup> The FCC's decision on this point threatens to wipe out the low-power television service, and that is not what Congress intended.

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<sup>8</sup> The FCC must ensure that DDSA station receive UHF channels because digital data cannot be effectively transmitted in the VHF spectrum.

<sup>9</sup> See *Incentive Auction Order*, paras. 21, 236-241, 656-663.

<sup>10</sup> See *id.* at para. 237.

<sup>11</sup> See Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, §§ 6402 (codified at 47 U.S.C. § 309(j)(8)(G)), §§6403(b)(5) (protecting spectrum rights of low power TV stations); 6403(b)(2) (requiring the FCC to make "all reasonable efforts" to maintain population served and coverage area of full-power and Class A stations) (the "Spectrum Act").

But even assuming for the sake of argument that the FCC’s general decision to leave LPTV stations unprotected is defensible under the Spectrum Act, the FCC clearly erred when it failed to protect stations that Congress identified in the DDSA for its LPTV data pilot project. Congress clearly expressed its intention that the 13 stations identified in the DDSA should be permitted to operate so that they can introduce digital data services on low-power TV spectrum. The Spectrum Act did not repeal the DDSA or give the FCC authority to abrogate or ignore its provisions. Indeed, the goals of the DDSA and the Spectrum Act are the same – the gradual and controlled transition of a portion of the TV spectrum from broadcast to wireless broadband use. By disenfranchising DDSA stations, the FCC is actually failing to fulfill the mandate of either statute.

The issue of protection of DDSA stations was raised by the LPTV Spectrum Rights Coalition in an *ex parte* presentation dated September 17, 2013.<sup>12</sup> Yet the *Incentive Auction Order* inexplicably fails to even mention the DDSA, let alone provide an explanation of how its actions regarding DDSA stations comply with that statute’s provisions. This was clear error. The FCC is required to provide a reasoned decision for its rulemaking decisions.<sup>13</sup> And the FCC’s decisions must be consistent with all statutory directives from Congress.<sup>14</sup> Moreover, the FCC’s construction of Congressional acts through the rulemaking process cannot ignore or

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<sup>12</sup> See Letter from Mike Gravino, Director LPTV Spectrum Rights Coalition, to Marlene H. Dortch, Secretary, FCC, MB Docket No. 12-268, filed Sept. 17, 2013.

<sup>13</sup> See *Motor Vehicle Manufacturers Ass’n of U.S. v. State Farm Mutual Auto Insurance Co.*, 463 U.S. 29, 43 (1983).

<sup>14</sup> See, e.g., *Southwestern Bell Corp. v. FCC*, 43 F.3d 1515 (D.C. Cir. 1995) (quoting *AT&T v. FCC*, 487 F.2d 865, 880 (2d Cir. 1973) (“however reasonable the Commission’s assessment, we are not at liberty to release the agency from the tie that binds it to the text Congress enacted.”)).



effectively undue Congress's directives.<sup>15</sup> The FCC's decision in this case violates all three of these black-letter legal precepts. The FCC did not explain why it was not respecting the provisions of the DDSA. Nor did it explain how its decision to leave DDSA stations without any protection from displacement in the repack conforms to the requirements of the DDSA. Finally, the FCC's action in the *Incentive Auction Order* essentially renders the DDSA a dead letter. The FCC has no authority to repeal the DDSA, but the *Incentive Order* amounts to a *sub silentio* abrogation of that Congressional act.

The FCC can easily correct this error by providing DDSA stations with a first priority for DDSA stations to acquire replacement UHF spectrum if they are displaced by the repack. This would respect Congress's intention that these 13 stations be permitted to introduce broadband data services on their LPTV stations. And this course would not substantially limit the FCC's flexibility in the repack because there are only 13 DDSA stations, which will not place any great burden on the FCC's spectrum assignment scheme. USTV is not asking that the FCC guarantee it a channel following the repack (although such FCC action arguably is required by the DDSA and the Spectrum Act). Instead, USTV is simply asking that the FCC put DDSA stations first in line for LPTV spectrum once the FCC completes the repack of full-power and Class A stations.

USTV's request is fully in line with Congress's policy as expressed in the Spectrum Act and the DDSA. Both statutes are designed to increase the use of TV spectrum for broadband wireless data service. Giving DDSA stations first priority for LPTV spectrum will further that goal without creating any substantial additional administrative burdens on the FCC. And, given

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<sup>15</sup> See *AT&T v. FCC*, 978 F.2d 727 (D.C. Cir.) (FCC may not adopt a construction of statutory language that renders that language inoperative); *MCI Telecommunications Corp. v. FCC*, 765 F.2d 871 (D.C. Cir. 1985) (same).

the small number of stations involved, a DDSA priority would not materially reduce the amount of spectrum available for other displaced LPTV stations to acquire new channels.<sup>16</sup>

### III. CONCLUSION

For the reasons described above, USTV urges the FCC to reconsider the *Incentive Auction Order* to the extent it fails to protect DDSA stations from permanent displacement. USTV further urges the FCC to adopt rules that at least guarantee DDSA stations a first priority when spectrum is reassigned following the TV incentive auction and the full-power and Class A spectrum repack.

Respectfully submitted,

/s/  
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September 12, 2014

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<sup>16</sup> USTV recognizes that the FCC has committed to opening a new rulemaking to address LPTV issues arising from the incentive auction and repack. *Incentive Auction Order*, paras. 664-666. While this issue would be appropriately considered in that proceeding, that does not obviate the need for the FCC to reconsider its failure to address DDSA issues in the main incentive auction proceeding.

# EXHIBIT

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\*Public Law 106-554  
106th Congress

An Act

Making consolidated appropriations for the fiscal year ending September 30, 2001,  
and for other purposes.

Dec. 21, 2000

[H.R. 4577]

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

SECTION 1. (a) The provisions of the following bills of the  
106th Congress are hereby enacted into law:

(1) H.R. 5656, as introduced on December 14, 2000.

(2) H.R. 5657, as introduced on December 14, 2000.

(3) H.R. 5658, as introduced on December 14, 2000.

(4) H.R. 5666, as introduced on December 15, 2000, except  
that the text of H.R. 5666, as so enacted, shall not include  
section 123 (relating to the enactment of H.R. 4904).

(5) H.R. 5660, as introduced on December 14, 2000.

(6) H.R. 5661, as introduced on December 14, 2000.

(7) H.R. 5662, as introduced on December 14, 2000.

(8) H.R. 5663, as introduced on December 14, 2000.

(9) H.R. 5667, as introduced on December 15, 2000.

(b) In publishing this Act in slip form and in the United  
States Statutes at Large pursuant to section 112 of title 1, United  
States Code, the Archivist of the United States shall include after  
the date of approval at the end appendixes setting forth the texts  
of the bills referred to in subsection (a) of this section and the  
text of any other bill enacted into law by reference by reason  
of the enactment of this Act.

SEC. 2. (a) Notwithstanding Rule 3 of the Budget Scorekeeping  
Guidelines set forth in the joint explanatory statement of the  
committee of conference accompanying Conference Report 105-217,  
legislation enacted in section 505 of the Department of Transpor-  
tation and Related Agencies Appropriations Act, 2001, section 312  
of the Legislative Branch Appropriations Act, 2001, titles X and  
XI of H.R. 5548 (106th Congress) as enacted by H.R. 4942 (106th  
Congress), division B of H.R. 5666 (106th Congress) as enacted  
by this Act, and sections 1(a)(5) through 1(a)(9) of this Act that  
would have been estimated by the Office of Management and Budget  
as changing direct spending or receipts under section 252 of the  
Balanced Budget and Emergency Deficit Control Act of 1985 were  
it included in an Act other than an appropriations Act shall be  
treated as direct spending or receipts legislation, as appropriate,  
under section 252 of the Balanced Budget and Emergency Deficit  
Control Act of 1985.

(b) In preparing the final sequestration report required by  
section 254(f)(3) of the Balanced Budget and Emergency Deficit  
Control Act of 1985 for fiscal year 2001, in addition to the infor-  
mation required by that section, the Director of the Office of Man-  
agement and Budget shall change any balance of direct spending

Consolidated  
Appropriations  
Act, 2001.  
Incorporation by  
reference.

Publication.  
1 USC 112 note.

\* See Endnote on 114 Stat. 2764.

SEC. 139. EXCLUSION OF ELEMENTS OF UNITED STATES SECRET SERVICE FROM CERTAIN ACTIVITIES. Section 7103(a)(3) of title 5, United States Code, is amended—

- (1) in subparagraph (F), by striking “or” at the end;
- (2) in subparagraph (G), by striking the period and inserting “; or”; and
- (3) by adding at the end the following new subparagraph:  
 “(H) the United States Secret Service and the United States Secret Service Uniformed Division.”

SEC. 140. (a) The adjustment in rates of basic pay for the statutory pay systems that takes effect in fiscal year 2001 under sections 5303 and 5304 of title 5, United States Code, shall be an increase of 3.7 percent.

(b) Funds used to carry out this section shall be paid from appropriations which are made to each applicable department or agency for salaries and expenses for fiscal year 2001.

SEC. 141. REPEAL OF MANDATORY SEPARATION REQUIREMENT. (a) IN GENERAL.—Section 8335 of title 5, United States Code, is amended—

- (1) by striking subsection (c); and
- (2) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 8339(q) of title 5, United States Code, is amended by striking “8335(d)” and inserting “8335(c)”.

SEC. 142. Section 223(a)(14) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(14) as amended, is hereby amended by inserting after the phrase “twenty-four hours” the following new phrase: “(except in the case of Alaska where such time limit may be forty-eight hours in fiscal years 2000 through 2002)”.

SEC. 143. (a) Section 336 of the Communications Act of 1934 (47 U.S.C. 336) is amended—

- (1) by redesignating subsection (h) as subsection (i); and
- (2) by inserting after subsection (g) the following:

“(h)(1) Within 60 days after receiving a request (made in such form and manner and containing such information as the Commission may require) under this subsection from a low-power television station to which this subsection applies, the Commission shall authorize the licensee or permittee of that station to provide digital data service subject to the requirements of this subsection as a pilot project to demonstrate the feasibility of using low-power television stations to provide high-speed wireless digital data service, including Internet access to unserved areas.

“(2) The low-power television stations to which this subsection applies are as follows:

- “(A) KHLM–LP, Houston, Texas.
- “(B) WTAM–LP, Tampa, Florida.
- “(C) WWRJ–LP, Jacksonville, Florida.
- “(D) WVBG–LP, Albany, New York.
- “(E) KHHI–LP, Honolulu, Hawaii.
- “(F) KPHE–LP (K19DD), Phoenix, Arizona.
- “(G) K34FI, Bozeman, Montana.
- “(H) K65GZ, Bozeman, Montana.
- “(I) WXOB–LP, Richmond, Virginia.
- “(J) WIIW–LP, Nashville, Tennessee.

“(K) A station and repeaters to be determined by the Federal Communications Commission for the sole purpose of providing service to communities in the Kenai Peninsula Borough and Matanuska Susitna Borough.

“(L) WSPY-LP, Plano, Illinois.

“(M) W24AJ, Aurora, Illinois.

“(3) Notwithstanding any requirement of section 553 of title 5, United States Code, the Commission shall promulgate regulations establishing the procedures, consistent with the requirements of paragraphs (4) and (5), governing the pilot projects for the provision of digital data services by certain low power television licensees within 120 days after the date of enactment of LPTV Digital Data Services Act. The regulations shall set forth—

“(A) requirements as to the form, manner, and information required for submitting requests to the Commission to provide digital data service as a pilot project;

“(B) procedures for testing interference to digital television receivers caused by any pilot project station or remote transmitter;

“(C) procedures for terminating any pilot project station or remote transmitter or both that causes interference to any analog or digital full-power television stations, class A television station, television translators or any other users of the core television band;

“(D) specifications for reports to be filed quarterly by each low power television licensee participating in a pilot project;

“(E) procedures by which a low power television licensee participating in a pilot project shall notify television broadcast stations in the same market upon commencement of digital data services and for ongoing coordination with local broadcasters during the test period; and

“(F) procedures for the receipt and review of interference complaints on an expedited basis consistent with paragraph (5)(D).

“(4) A low-power television station to which this subsection applies may not provide digital data service unless—

“(A) the provision of that service, including any remote return-path transmission in the case of 2-way digital data service, does not cause any interference in violation of the Commission’s existing rules, regarding interference caused by low power television stations to full-service analog or digital television stations, class A television stations, or television translator stations; and

“(B) the station complies with the Commission’s regulations governing safety, environmental, and sound engineering practices, and any other Commission regulation under paragraph (3) governing pilot program operations.

“(5)(A) The Commission may limit the provision of digital data service by a low-power television station to which this subsection applies if the Commission finds that—

“(i) the provision of 2-way digital data service by that station causes any interference that cannot otherwise be remedied; or

“(ii) the provision of 1-way digital data service by that station causes any interference.

“(B) The Commission shall grant any such station, upon application (made in such form and manner and containing such information as the Commission may require) by the licensee or permittee of that station, authority to move the station to another location, to modify its facilities to operate on a different channel, or to use booster or auxiliary transmitting locations, if the grant of authority will not cause interference to the allowable or protected service areas of full service digital television stations, National Television Standards Committee assignments, or television translator stations, and provided, however, no such authority shall be granted unless it is consistent with existing Commission regulations relating to the movement, modification, and use of non-class A low power television transmission facilities in order—

“(i) to operate within television channels 2 through 51, inclusive; or

“(ii) to demonstrate the utility of low-power television stations to provide high-speed 2-way wireless digital data service.

“(C) The Commission shall require quarterly reports from each station authorized to provide digital data services under this subsection that include—

“(i) information on the station’s experience with interference complaints and the resolution thereof;

“(ii) information on the station’s market success in providing digital data service; and

“(iii) such other information as the Commission may require in order to administer this subsection.

“(D) The Commission shall resolve any complaints of interference with television reception caused by any station providing digital data service authorized under this subsection within 60 days after the complaint is received by the Commission.

“(6) The Commission shall assess and collect from any low-power television station authorized to provide digital data service under this subsection an annual fee or other schedule or method of payment comparable to any fee imposed under the authority of this Act on providers of similar services. Amounts received by the Commission under this paragraph may be retained by the Commission as an offsetting collection to the extent necessary to cover the costs of developing and implementing the pilot program authorized by this subsection, and regulating and supervising the provision of digital data service by low-power television stations under this subsection. Amounts received by the Commission under this paragraph in excess of any amount retained under the preceding sentence shall be deposited in the Treasury in accordance with chapter 33 of title 31, United States Code.

“(7) In this subsection, the term ‘digital data service’ includes—

“(A) digitally-based interactive broadcast service; and

“(B) wireless Internet access, without regard to—

“(i) whether such access is—

“(I) provided on a one-way or a two-way basis;

“(II) portable or fixed; or



“(III) connected to the Internet via a band allocated to Interactive Video and Data Service; and

“(ii) the technology employed in delivering such service, including the delivery of such service via multiple transmitters at multiple locations.

“(8) Nothing in this subsection limits the authority of the Commission under any other provision of law.”.

(b) The Federal Communications Commission shall submit a report to the Congress on June 30, 2001, and June 30, 2002, evaluating the utility of using low-power television stations to provide high-speed digital data service. The reports shall be based on the pilot projects authorized by section 336(h) of the Communications Act of 1934 (47 U.S.C. 336(h)).

SEC. 144. (a) The Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et. seq.) is amended—

(1) in section 303(d)(1)(A) by striking “October 1, 2000,” and inserting “October 1, 2002,”;

(2) in section 303(d)(5) by striking “October 1, 2000,” and inserting “October 1, 2002,”;

(3) in section 407(b) by striking “October 1, 2000,” and inserting “October 1, 2002,”; and

(4) in section 407(c)(1) by striking “October 1, 2000,” and inserting “October 1, 2002,”.

(b) Notwithstanding sections 303(d)(1)(A) and 303(d)(1)(B) of the Magnuson-Stevens Fishery Conservation and Management Act, as amended by this section, the Pacific Fishery Management Council may recommend and the Secretary of Commerce may approve and implement any fishery management plan, plan amendment, or regulation, for fixed gear sablefish subject to the jurisdiction of such Council, that—

(1) allows the use of more than one groundfish fishing permit by each fishing vessel; and/or

(2) sets cumulative trip limit periods, up to 12 months in any calendar year, that allow fishing vessels a reasonable opportunity to harvest the full amount of the associated trip limits.

Notwithstanding subsection (a), the Gulf of Mexico Fishery Management Council may develop a biological, economic, and social profile of any fishery under its jurisdiction that may be considered for management under a quota management system, including the benefits and consequences of the quota management systems considered. The North Pacific Fishery Management Council shall examine the fisheries under its jurisdiction, particularly the Gulf of Alaska groundfish and Bering Sea crab fisheries, to determine whether rationalization is needed. In particular, the North Pacific Council shall analyze individual fishing quotas, processor quotas, cooperatives, and quotas held by communities. The analysis should include an economic analysis of the impact of all options on communities and processors as well as the fishing fleets. The North Pacific Council shall present its analysis to the appropriations and authorizing committees of the Senate and House of Representatives in a timely manner.

(c)(1) Public Law 101–380, as amended by section 2204 of chapter 2 of title II of Public Law 106–246, is amended further—



# EXHIBIT

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## United States Senate

WASHINGTON, DC 20510-1804

December 23, 2014

The Honorable Tom Wheeler  
Chairman  
Federal Communications Commission  
445 12th St., S.W.  
Washington, DC 20554

Dear Chairman Wheeler:

I am writing to you regarding the FCC's upcoming TV broadcast incentive auction and subsequent reorganization of the TV broadcast spectrum. Specifically, I would like to encourage the FCC to give consideration to requests by low-power television stations ("LPTVs") protected by the Digital Data Services Act, Pub L. No 106-554, 114 Stat. 4577 (Dec. 21, 2000) (the "DDSA"), for full access to TV broadcast channels following the TV incentive auction.

As you may know, Congress passed the DDSA to give certain LPTVs the ability to explore using low-power broadcast signals to deliver commercial wireless data services. This use of broadcast spectrum holds promise for alleviating the "spectrum crunch" currently facing the wireless telecommunications industry. As I understand, technological developments will soon make it possible for LPTVs to begin offering the types of two-way data transmissions that wireless companies need in the near future.

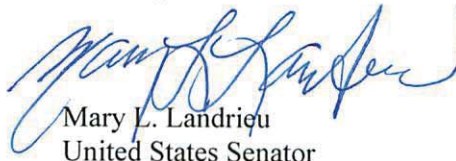
I also understand that the FCC will be required to "repack" full power television and Class A stations on a smaller number of channels than they currently use as a part of the TV broadcast incentive auction process. However, most observers speculate that when the "repack" is completed, there will be many fewer channels available for LPTVs than there are today, and that many LPTVs will be forced to go off the air permanently. Accordingly, I ask that the FCC give full and fair consideration to requests by stations identified in the DDSA that they be given priority for obtaining new TV channels in the UHF spectrum where digital data services can be provided in the post-incentive auction "repack."

In a petition for reconsideration of the FCC incentive auction rules, U.S. Television, LLC raised an argument that the DDSA requires further protection for certain low-power television stations that Congress identified by putting the "DDSA stations first in line for LPTV spectrum once the FCC completes the repack of full power and Class A stations." That petition should be given full and fair consideration by the FCC.

I recognize that this is a complex process that requires the FCC to exercise its special expertise in allocating spectrum and making judgments about the best use of the public airwaves. In making those judgments, I ask that you consider the DDSA and Congress's intention to develop wireless data services on LPTV stations.

With warmest regards, I am

Sincerely,



Mary L. Landrieu  
United States Senator

MLL:rn